

EDMUND G. BROWN JR., Attorney General  
of the State of California  
PAUL C. AMENT, State Bar No. 60427  
Supervising Deputy Attorney General  
E. A. JONES III, State Bar No. 71375  
Deputy Attorney General  
ELAINE GYURKO  
Senior Legal Analyst  
California Department of Justice  
300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-4944  
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2060

DOMINIC JOSEPH  
1721 E. Colton Avenue Apt. 86  
Redlands, California 92374

**A C C U S A T I O N**

Respiratory Care Practitioner License No. 14605

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California (Board), Department of Consumer Affairs.

2. On or about September 19, 1991, the Board issued Respiratory Care Practitioner License Number 14605 to Dominic Joseph (Respondent). This license was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2007, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the

1 following laws. All section references are to the Business and Professions Code (Code) unless  
2 otherwise indicated.

3 4. Section 3710 of the Code states: “The Respiratory Care Board of  
4 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter  
5 8.3, the Respiratory Care Practice Act].”

6 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,  
7 and revoke licenses to practice respiratory care as provided in this chapter.”

8 6. Section 3750 of the Code states:

9 “The board may order the denial, suspension or revocation of, or the imposition of  
10 probationary conditions upon, a license issued under this chapter, for any of the following  
11 causes:

12 “. . .

13 “(d) Conviction of a crime that substantially relates to the qualifications,  
14 functions, or duties of a respiratory care practitioner. The record of conviction or a  
15 certified copy thereof shall be conclusive evidence of the conviction. . . .”

16 7. Section 3752 of the Code states:

17 “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
18 made to a charge of any offense which substantially relates to the qualifications,  
19 functions, or duties of a respiratory care practitioner is deemed to be a conviction within  
20 the meaning of this article. The board shall order the license suspended or revoked, or  
21 may decline to issue a license, when the time for appeal has elapsed, or the judgment of  
22 conviction has been affirmed on appeal or when an order granting probation is made  
23 suspending the imposition of sentence, irrespective of a subsequent order under Section  
24 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to  
25 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
26 accusation, information, or indictment.”

27 8. Section 490 of the Code states:

28 “A board may suspend or revoke a license on the ground that the licensee has

1 been convicted of a crime, if the crime is substantially related to the qualifications,  
2 functions, or duties of the business or profession for which the license was issued. A  
3 conviction within the meaning of this section means a plea or verdict of guilty or a  
4 conviction following a plea of nolo contendere. Any action which a board is permitted to  
5 take following the establishment of a conviction may be taken when the time for appeal  
6 has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order  
7 granting probation is made suspending the imposition of sentence, irrespective of a  
8 subsequent order under the provisions of Section 1203.4 of the Penal Code.”

9 9. Section 3752.5 of the Code states:

10 “For purposes of Division 1.5 (commencing with Section 475), and this chapter  
11 [the Respiratory Care Practice Act], a crime involving bodily injury or attempted bodily  
12 injury shall be considered a crime substantially related to the qualifications, functions, or  
13 duties of a respiratory care practitioner.”

#### 14 COST RECOVERY

15 10. Section 3753.5, subdivision (a) of the Code states:

16 "In any order issued in resolution of a disciplinary proceeding before the board,  
17 the board or the administrative law judge may direct any practitioner or applicant found to  
18 have committed a violation or violations of law to pay to the board a sum not to exceed  
19 the costs of the investigation and prosecution of the case."

20 11. Section 3753.7 of the Code states:

21 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
22 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
23 administrative, filing, and service fees."

24 12. Section 3753.1, subdivision (a) of the Code states:

25 "An administrative disciplinary decision imposing terms of probation may  
26 include, among other things, a requirement that the licensee-probationer pay the monetary  
27 costs associated with monitoring the probation."  
28

1 CAUSE FOR DISCIPLINE

2 (Conviction of a Crime)

3 13. Respondent is subject to disciplinary action under sections 3750,  
4 subdivision (d), 3752, 490 and 3752.5 of the Code, in that he was convicted of a crime  
5 substantially related to the qualifications, functions or duties of a respiratory care practitioner.  
6 The circumstances are as follows:

7 A. On August 14, 2003, a Redlands police officer responded to a  
8 report of a domestic battery. Respondent was arguing with his wife, became very angry,  
9 and threw 3 glass jars of applesauce on the kitchen floor. Respondent grabbed his wife  
10 by the arm and swung her so hard that she fell on the broken glass. Respondent then  
11 jumped on top of her and tried to hit her in the face with his fists. Respondent's son  
12 pulled Respondent off of the victim, and their daughter dialed 911. The victim, who  
13 suffered a laceration on her right palm and right shin bone, and scratches on her upper  
14 right arm, was transported to the hospital. Respondent was arrested.

15 B. On September 8, 2003, a complaint was filed against Respondent  
16 in a criminal proceeding entitled *People v. Dominic Michael Joseph*, in Superior Court,  
17 San Bernardino County, Case Number MRE015595, charging him with one count of  
18 corporal injury to a spouse/cohabitant/child's parent, a violation of Penal Code section  
19 273.5(a), a misdemeanor. On November 13, 2003, the complaint was amended by  
20 interlineation to add count 2, disturbing the peace, a violation of Penal Code section 415,  
21 a misdemeanor.

22 C. On November 13, 2003, Respondent was convicted by a plea of  
23 nolo contendere to count 2, disturbing the peace, a violation of Penal Code section 415.  
24 Respondent was placed on probation for three years. He was ordered to pay a fine of  
25 \$1,000.00 to the domestic violence fund, serve 30 days in county jail (with credit for two  
26 days), and complete a 52-week batterers treatment program.

27 D. The crime of disturbing the peace, in light of the circumstances of  
28 the crime set forth in paragraph 13.A. above, is substantially related to the qualifications,

1 functions, or duties of a respiratory care practitioner.

2 PRAYER

3 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
4 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

5 1. Revoking or suspending Respiratory Care Practitioner License Number  
6 14605, issued to Dominic Joseph;

7 2. Ordering Dominic Joseph to pay the Respiratory Care Board the costs of  
8 the investigation and enforcement of this case, and if placed on probation, the costs of probation  
9 monitoring;

10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: March 7, 2007

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14 Original signed by Liane Zimmerman for:  
15 STEPHANIE NUNEZ  
16 Executive Officer  
17 Respiratory Care Board of California  
18 Department of Consumer Affairs  
19 State of California  
20 Complainant  
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